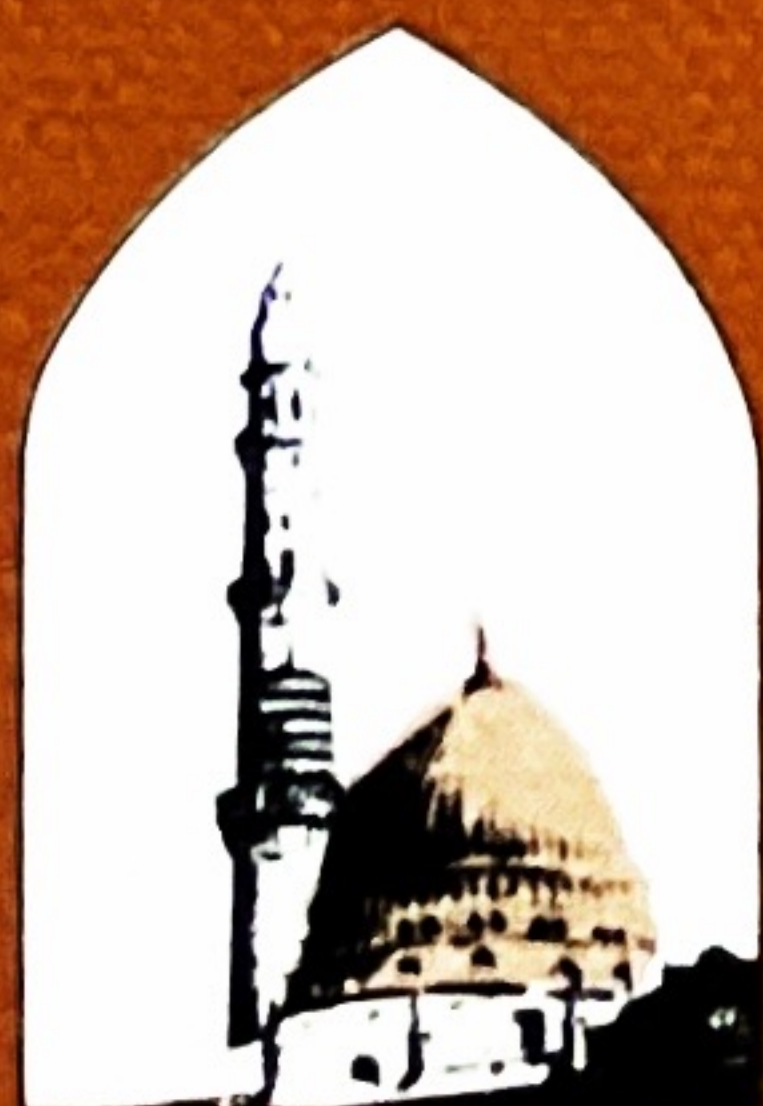


Concept of **ISLAMIC STATE**

Islamic Council of Europe



المجلس الإسلامي الأوربي

Concept of
ISLAMIC STATE

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INTRODUCTION

The world today is witnessing an unprecedented awakening among Muslims who are yearning to re-establish their own identity. They desire to pattern their lives on the model given to them by Islam. They are fully conscious of the fact that so long as they followed the Islamic system they were the standard bearers of a civilisation which had no parallel in history. They fell on evil days when they abandoned these principles.

They are gradually coming out of the slumber in which they were lulled by colonial powers. They are becoming aware of their glorious heritage of Islam and are once again poised to play their part in developing a world order on the just, equitable and humane social system as enunciated in the Holy Qur'an.

Islam has its own ideology and principles relating to dogma, laws, morals, ideals, rights and obligations; it is not bound by locality, race, nationality or colour.

Thus, Islam's concept of sovereignty lies in Shari'ah. In other words, it lies in those eternal principles of Islam which are divine in origin and were revealed to Prophet Muhammad (Peace be upon him) as the last words from God to humanity.

Lack of understanding of Islam has led the West to believe that Islamic system of government is equivalent to theocracy. Nothing is farther from the truth. Islamic law can never lead to theocracy for the simple reason that the absence of any priestly hierarchy lies at the very root of its conception of religion.

This awakening has led to a desire to know more about the Islamic system of government.

The Islamic Council of Europe has prepared this treatise on the basis of extracts from the writings of eminent Muslim scholars in an effort to explain the concept of an Islamic state. It hopes that it will shed some light on the fundamental principle of an Islamic system of government.

To illustrate how this concept was put into practice we have included in this treatise the guidelines given by the great Caliph Ali bin Abi Talib to the Governor of Egypt Malik Ashtar. The guidelines even after nearly fourteen centuries, are unique and a model that will be a source of light and inspiration to all governments till eternity.

*Jamad Awwal 1399
April 1979*

*Salem Azzam
Secretary General
Islamic Council of Europe*

AN ISLAMIC STATE – POINT OF VIEW*

by *Ayatullah Khomeini*

The Islamic state bears no resemblance to any existing system of government. The Islamic state is neither autocratic nor does it make its head the repository of all powers so as to let him play with the life and property of the people. The Islamic state is free of all despotism. It is a constitutional state but not in the modern sense where the constitution is interpreted by parliament or public representative bodies. The Islamic state is a constitutional state in the sense that those charged with running it are bound by the rules and conditions laid down by the Qur'an and Sunnah. The right to legislate is the prerogative of God. No one here has or can have the absolute or unconditional power to make laws, nor can anyone issue an ordinance which has no sanction in Divine guidance.

Obedience to the Qur'an and Sunnah make the discharge of the state's responsibilities very easy. In other forms of government when the majority passes a bill, the government has to take recourse to various devices and pressures in order to obtain obedience to the enactment, but in Islam people obey the law of their own volition.

The Islamic government is a government of law. Here God alone is the Paramount Authority. He is the legislator . . . All people including the blessed Prophet, his caliphs and everyone is bound by the injunctions revealed through *Wahy* or those laid down by God in the Qur'an or those issued by the blessed Prophet himself . . . The authority enjoyed by the blessed Prophet or by the right type of rulers after him is an authority delegated by God . . . Thus in Islam there is no place for the obedience of one's wishes or unbridled opinion. On the contrary the blessed Prophet, all the Imams and the masses, all of them are the followers of the will of God and observers of His Shari'ah.

The Islamic government is free from all such appellations as kingdom, empire etc. Islam does not permit (the state) to tamper with the life and property of the people. That is why we do not find such things in Islamic rule as are commonly found in other rulers and monarchs of the world. For example grand palaces, an army of pages and servants, the glitter and glamour of the court and an heir apparent to the crown (are not to be found in Islam). The Islamic system is free of all these superfluities which take away more than half the wealth of the country. Although he was also the head of state the blessed Prophet had a very simple life-style . . . I am not sure if the *fuqara* (hermits) of today can lead as simple a life as that of Imam Ali. It is reported that when he received two shirts, he gave one shirt, the better one, to his slave, Qanbar.

At the root of the many social ills of today is the corruption of the ruling family . . . If the royal court did not squander or the royal family did not plunder, the country's budget could have never run into deficit and incurred the British and American debts and the indignities that go with them. Have our oil deposits depleted? Or the mineral wealth hidden under the earth exhausted itself? We possess everything, and but for the court's squanderings and its unlimited stealing of public money, we would not have had to extend our hands before anyone.

It is historically proved that Colonialist has cut down the (Islamic) homeland into several pieces and split Muslims into various nations. The colonial powers strove very hard to break up the strong and united Ottoman state. The Russians,

*Extract from '*Hukumat-e-Islamiah*'

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the British and their allies joined hands to fight against the Ottoman state. Eventually they split and shared among themselves this united Muslim state. Now there is only one way to unite the Islamic millat, liberate the occupied Muslim territories, get rid of the stooges of colonial power, and establish a true Islamic state.

There are two important requirements of leadership in Islam: the knowledge of Islamic law and ability to do justice. If there is a person who is a privy to the secrets of nature or an expert in other subjects but ignorant about (*fiqh*) (Islamic jurisprudence) then inspite of all his academic and scientific skills, he would not be considered eligible for *Khilafah* . . . From the very beginning until today it has been an accepted principle among Muslims that the ruler or Caliph should be one who, in addition to having correct beliefs and good character, has the ability to do justice. It is also the dictate of common sense particularly when we know that the Islamic state is another word for the actualisation of Islamic laws rather than that of the whims and wishes of people. A person who is not well-versed in Islamic law cannot deserve to head an Islamic government . . . A ruler who has to enforce the Divine limits (*Hodood*), give people their rights, keep trust of the public treasury and honestly organise revenue and expenditure, such a person must not be a despot. God says that His promise (of support) is not meant for the despots.

Since the death of the blessed Prophet until the seclusion of the 12th Imam, the Shi'a 'ulamas have been unanimous in their view that the ruler of the Muslims and their leader is one who excels (in human) qualities, is knowledgeable about Islamic laws and rules, is just in applying the laws and is not deterred by any criticism or opposition in the matter of implementing the religion of God.

If we believe that those rules and laws which an Islamic state is founded have a permanent validity and that the Shari'ah does not approve of anarchy and lawlessness then it clearly follows that to establish an Islamic government is obligatory upon us . . . Islam also demands from us that we do justice to the oppressed and prevent the oppressor from doing injustice to people. All these things cannot be achieved unless we establish strong social institutions and these institutions are funded by public treasury.

It is very obvious that the Shari'ah was meant to be applied not just during the time of the blessed Prophet, but the need for the Shari'ah is perpetual. Islam is free from constraints of time and space. Islam is an eternal and universal religion. Its implementation and its discipline are also eternal and universal. If there is anything which was *halal* (permissible) during the time of the blessed Prophet, then it shall remain *halal* until the end of our world. If there is anything which was *haram* (prohibited) in his time, then it shall remain so till the Day of Judgement. To suspend the limits (i.e. *Hadd*) imposed by Islam, to disregard its instructions and directives to give up the injunctions on Qassas (punishment) and *Dayt* (blood money) or to withhold payment of the monetary dues prescribed by Islam or to abdicate from the duty of defending the millat and Islamic homelands is not permissible. To regard that Islam was revealed for a particular period of time is against the fundamental objectives of Islam.

If the present Muslim rulers apply the laws of Islam, give up all their differences and enmities and unite to face their adversaries, then in that case a few zionists and British and American agents would dare not achieve those victories (over Muslims) which they are achieving at present . . . All the shame and debacle of today is the natural result of the fact that Muslims have defaulted from the duty

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of establishing Good Government and the application of the laws given by God.

Both the Shari'ah and common sense dictate that we do not let the existing governments persist in their (wrong) ways . . . They have suspended the Shari'ah of God. For this reason it is the duty of all Muslims of the world, wherever they may happen to be, to arise for Islamic revolution.

BASIC PRINCIPLES OF AN ISLAMIC STATE

A Convention of the 'Ulama representing all the schools of Islamic thought was held from 21st to 24th January, 1951, in Karachi, and issued the following agreed statement on the basic principles of an Islamic State.

The Constitution of an Islamic State should comprehend the following basic principles :—

1. Ultimate Sovereignty over all Nature and all Law vests in *Allah*, the Lord of the universe, alone.
2. The law of the land shall be based on the Qur'an and the *Sunnah*, and no law shall be enacted nor any administrative order issued, in contravention of the Qur'an and the *Sunnah*.

Explanatory Note :—

If there be any laws in force on the country which are in conflict with the Qur'an or the *Sunnah*, it would be necessary to lay down (in the Constitution) that such laws shall be gradually, within a specified period, repealed or amended in conformity with the Islamic Law.

3. The State shall be based not on geographical, racial, linguistic or any other materialistic concepts, but on the principles and ideals of Islamic ideology.
4. It shall be incumbent upon the State to uphold and establish the Right (*Ma'ruf*) and to suppress and eradicate the Wrong (*Munkar*) as presented in the Qur'an and the *Sunnah*, to take all necessary measures for the revival and advancement of the cultural pattern of Islam, and to make provision for Islamic education in accordance with the requirements of the various recognised schools of Islamic thought.
5. It shall be incumbent upon the State to strengthen the bonds of unity and brotherhood among the Muslims of the world and to inhibit the growth of all prejudicial tendencies based on distinctions of race or language or territory or any other materialistic consideration and to preserve and strengthen the unity of the *Millat al-Islamiah*.
6. It shall be the responsibility of the Government to guarantee the basic necessities of life, *i.e.*, food, clothing, housing, medical relief and education to all citizens without distinction of race or religion, who might temporarily or permanently be incapable of earning their livelihood due to unemployment, sickness or other reason.

Citizens' Rights

7. The citizens shall be entitled to all the rights conferred upon them by the Islamic law, *i.e.*, they shall be assured, within the limits of the law, of full security of life, property and honour, freedom of religion

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- and belief, freedom of worship, freedom of person, freedom of expression, freedom of movement, freedom of association, freedom of occupation, equality of opportunity and the right to benefit from public services.
8. No citizen shall, at any time, be deprived of these rights, except under the law; and none shall be awarded any punishment on any charge without being given full opportunity of defence and without the decision of a court of law.
 9. The recognised Muslim schools of thought shall have, within the limits of the law, complete religious freedom. They shall have the right to impart religious instruction to their adherents and the freedom to propagate their views. Matters coming under the purview of Personal Law shall be administered in accordance with their respective codes of jurisprudence (*fiqh*), and it will be desirable to make provision for the administration of such matters by judges (*Qadis*) belonging to their respective schools of thought.
 10. The non-Muslim citizens of the State shall have within the limits of the law, complete freedom of religion and worship, mode of life, culture and religious education. They shall be entitled to have all their matters concerning Personal Law administered in accordance with their own religious code, usages and customs.
 11. All obligations assumed by the State, within the limits of the *Shari'ah* towards the non-Muslim citizens shall be fully honoured. They shall be entitled equally with the Muslim citizens to the rights of citizenship as enunciated in paragraph 7 above.
 12. The Head of the State shall always be a male Muslim in whose piety, learning and soundness of judgement the people or their elected representatives have confidence.
 13. The responsibility for the administration of the State shall primarily vest in the Head of the State, although he may delegate any part of his powers to any individual or body.

Governance of the State

14. The Head of the State shall function not in an autocratic but in a consultative (*Shura'i*) manner, *i.e.*, he will discharge his duties in consultation with persons holding responsible positions in the Government and with the elected representatives of the people.
15. The Head of the State shall have no right to suspend the Constitution wholly or partly or to run the administration without a *Shura*.
16. The body empowered to elect the Head of the State shall also have the power to remove him by a majority of votes.
17. In respect of civic rights, the Head of the State shall be on the level of equality with other Muslims and shall not be above the law.
18. All citizens, whether members of the Government, officials or private persons, shall be subject to the same laws and the jurisdiction of the same courts.
19. The judiciary shall be separate from and independent of the executive, so that it may not be influenced by the executive in the discharge of its duties.

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20. The propagation and publicity of such views and ideologies as are calculated to undermine the basic principles and ideals on which the Islamic State rest, shall be prohibited.
21. The various zones or regions of the country shall be considered administrative units of a single State. They shall not be racial, linguistic or tribal units but only administrative areas which may be given such powers under the supremacy of the Centre as may be necessary for administrative convenience. They shall not have the right to secede.
22. No interpretation of the Constitution which is in conflict with the provisions of the Qur'an or the *Sunnah* shall be valid.

THE ISLAMIC STATE *

by *Abd Al-Rahman Azzam*

In recent years numerous independent Muslim states have emerged in Asia and Africa. Coincidental with their emergence, national organizations and parties have come into being, intent upon basing their forms of government on the principles of the Shari'ah. Various views have been advanced as to the proper form of Islamic rule and the manner of formulating constitutions compatible with the requirements of Islam and capable of achieving its purposes.

Because of their wide geographic distribution, Islamic states comprise different peoples, cultures, traditions, customs, and forms of government. The needs of these states vary with different locations and social environments. Hence no one uniform constitution would be applicable to all, since the circumstances and interests of each country call for interpretations based on independent reasoning in order to produce the constitution most compatible with the purposes sought by the Shari'ah. Indeed, this variety of constitutions and forms of government may be more effective in realizing the objectives of Muslim law than a single uniform constitution, provided they comply with the general principles of the Shari'ah and the moral norms of Islam. This is because diversity in laws regulating public matters may be in itself necessary for the realization of the purposes of the Shari'ah, which aims at the interests of Muslims living under different conditions.

The emergence and evolution of Islamic jurisprudence, together with the diversity of views advanced by scholars and jurists who sought to interpret its provisions and who were definitely affected by their local conditions and circumstances, may be good guide to what we think is right in this regard.

Thus, the Islamic constitution sought by the Indonesians, Pakistanis, Arabs, or other Islamic peoples may be similar and compatible in essence although different in their details —the laws, decrees, and proceedings rendered necessary by the needs and the general welfare of the community.

What, then are the ideal constitution and Islamic form of government capable of unifying Muslims without hampering legislative and social evolution, as called for by the requirements of justice and general welfare at a given place or time?

Upon perusal of the holy Book and Islamic traditions (*sunnah*), and upon examination of Islamic history during the era of the orthodox caliphs, we find that Islam is definite and conclusive on all general principles suitable for all times, places, and peoples. When these principles are implemented, therefore, one can witness the flexibility of the Shari'ah and its disposition to independent reasoning. The Shari'ah in effect upholds the guidance given by the Prophet in his utterance, "You know best your own earthly matters." Thus the way is open for reason and human judgement to distinguish between right and wrong and to choose the road to the general welfare.

This is perhaps the virtue of Islam which renders it an eternal way of life and law for all mankind and thus upholds the pronouncement of the Almighty, "Surely We have revealed the Quran, and surely We are its Guardian."¹ For if Islam were otherwise, it would not have been a religion easy to observe. It would have caused hardship to people at various times and places and would not have met the challenge of their changing needs.

Thus, with the clarity of Islam on general principles and morals, the fact that it relegates many matters to settlement by interpretation and reasoning is not a

* Extract from *The Eternal Message of Muhammad* Published by Quartet Books, 27 Goodge Street, London W1. Price £2.50

¹ *Qur'an* 15:9.

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source of weakness in its eternal laws but of continued life.

Let us now advance some examples. Islam does not approve of a state based on the domination and power of one person or party. Its concept is that a state must be based on the consent and cooperation of the people. Islam commands consultation in the injunctions, "We have not sent thee [Muhammad] as a warder [a tyrant] over them";² "...consult them in appropriate matters [*amr*]"³ and "Their [the Muslims'] affairs are [decided] by consultation among themselves." It has made consultation a general principle whose application is mandatory and whose observance is to be respected by all Islamic states and communities at all times. Human experience has demonstrated the continuous character of this principle and its uses. However, Islam avoided defining a single method for consultation or specifying certain forms from which we were to select whatever might be suitable at a given time or place, for such particulars would have caused us hardship; the choice of the rules regulating consultation was left to us, with trust in our loyalty to our religion and to ourselves. The Prophet says that deeds are to be judged by their intent, and that every person will be rewarded by God according to his intentions. It has been left to us to decide, within the scope of this principle, the forms of consultation and the manner in which it should be conducted with a view to meeting our needs and securing general stability and the consent and satisfaction of the people. Therefore, we find that the principal Companions of the Prophet (Sahabah), followed by the heads of state (imams) and jurists, exercised independent reasoning on this subject. They put forth varying views regarding the *manner* in which consultation was to be conducted, and left to us a valuable legacy of varied precedents:

1. In the early days, matters were referred to the people at the mosque or to a selected group at a meeting, or a number of the principal Companions of the Prophet were invited for an exchange of views.
2. At a later date, consultation was held by referring the problem, on a special occasion, to those among the leaders of opinion and the dignitaries present.
3. When we find that in certain cases it was confined to one or more persons selected by the head of state for their sound judgement and the public respect which they enjoyed.

The heart of the matter was the good intentions of the leaders of the people, their fear of the Almighty, and their compliance with His commands. Within this context, they made use of consultation in a manner satisfactory to themselves and in harmony with the circumstances and the needs of the time.

Muslims have long agreed that the competent consultants should be *ahl al-hall wal'aqd*, meaning those who loosen and bind. The criterion of their authority is that if they agree on a course of action, it will be accepted by the people, and if they repudiate it, it will be rejected by the community.

Once we determine who are the competent persons suitable to be considered as natural leaders whom people follow, we then will have found those who truly enjoy public confidence, and the nation is ideally represented by them. The

2. *Ibid* 4:80.

3. *Ibid.*, 3:159. There, is no exact English equivalent for the Arabic word *amr*; the meaning concerns consultation on whatever Allah and the Muslims deem important.

4. *Ibid.*, 42:38.

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problem, however, which has persisted throughout Islamic history concerns, in the first place, the question of agreement as to who should be designated as natural leaders, whose approval, for instance, would suffice to guarantee the people's election of a caliph, and, second, the manner of selecting these electors. Opinion has been divided on these questions. Some have stipulated simply that the leaders should be learned men; others have said they would designate both scholars and other prominent figures in the community; still others have favoured those scholars who are capable of independent reasoning.⁵

The truth, of course, is that the determination of natural leaders is not a simple matter. City dwellers differ from those in the country, since the social structure in rural areas is not the same as it is in centres of population and industry. In one age, they may be composed of prominent scholars, and in another, they may be the dominant figures in their tribes, regions, or countries. In our age, they may be the leaders of parties, communities, or unions. Hence the question raises genuine differences of opinion as to how to define, recognize, and select natural leaders who will fulfil their important functions of legalizing the authority of the ruler and representing the people in all matters. Consideration must be given to differences among peoples, traditions, and customs as well as among the various generations and times.

Therefore, a constitution formulated in a manner enabling these leaders or representatives of the people to express their opinion and permitting the imam to consult with them varies in accordance with the considerations already referred to. What may occur in this respect in the form or constitution of one Islamic state may be at variance with the provisions of another, but whatever the means, they ultimately must be based on the sovereignty of Muslim law—the Shari'ah—and rest on the free consent of the people. This may serve to clarify what is subject to reasoning and what to tradition in choosing a form of government and writing a constitution consistent with Islam and its purposes.

Another example of the specific application of the Shari'ah is provided by the question of the imamate, that is, the selection of the head of state: the qualifications of an imam, his rights, and his duties. In this respect, we also find that the Shari'ah is clear as to what is established and permanent in matters relating to the imam himself and the imamate, leaving flexible and unspecified other matters to be determined by the exercise of reasoning and considerations of public interest and general welfare.

Ever since the Muslims met at Saqifat Bani-Sa'idah following the death of the Prophet and declared their allegiance to Abu-Bakr, the imamate has been the subject of dispute among Muslims, giving rise to various schools of thought. Even though the great majority have adopted the views of the orthodox Muslims (*adl al-sunnah*), the subject is not devoid of differences in many details. It may be said that the Muslims did not unanimously agree except on two points: the imperative necessity of the imamate itself to prevent chaos, and their desire to observe the tenets of their religion.

It is not our intention at this point to deal with the theoretical aspects of this subject or to question the beliefs and views which are still held by many sects, including the Sunnites (90 percent of the Muslims), Shi'ites, and Ibadites. This dispute is merely referred to in order to point out the distinction between what is mandatory according to the Shari'ah and what may be left to discretion.

5. The first caliph, Abu-Bakr, was elected in a general public meeting in which the community as a whole participated.

The latter is decided in a manner compatible with the public interest, the requirements of life, and the circumstances of the particular time and place.

When we consider these differences, we find that they include many matters relating to the imamate, even the title itself. Hence the Muslims called the head of state a *khalifah* (successor to the Prophet), an *amir al-mu'-minin* (commander of the faithful), an *imam* (leader), and a *sultan* (ruler or king).⁶

This difference of opinion began immediately after the Prophet passed away. When the people met at Saqifat Bani-Sa'idah, the situation was far from clear to them. The Ansar, from al-Madinah, said to the Meccan Muhajirun, "One amir from us and another from you," while the latter said, "From us the amirs and from you the ministers." In other words, one faction upheld the principle of the singularity of the imam, and the other upheld the principle of plurality. By general consensus, Abu-Bakr was chosen as the one leader because of his outstanding character. In the words of 'Umar, "Abu-Bakr towered above all others."

We are not concerned here with discussing the basic need for the imamate or whether this matter should be left to discretion, religious law, or other considerations, since the question was resolved by the unanimous decision (*ijma'*) of the Companions of the Prophet at the proper time.⁷ The Muslims, having established the imamate, proceeded to lay down the imam's rights and duties in order to guarantee him the powers necessary for guarding their earthly and spiritual interests in totally new society, born as the result of Muhammad's teaching, guidance, and struggle. This was to be self-supporting and mutually reliant society in which all people would enjoy complete equality as dependents of Allah, the only distinction among them being piety, and in which no one would exercise authority except by law emanating from the Shari'ah. It was indeed a revolutionary society founded on completely new principles and established in a world used to the divine right of kings and the force of arms of emperors.

It was in this society that the imamate emerged, the Shari'ah prevailed, and new rules and principles of a highly sacred and progressive character were established. These rules and principles have developed into a permanent constitution for Muslims under which no ruler may grant or adopt any privilege or power except within the framework of Shari'ah. It defines public and individual rights and duties, and no earthly body, not even the nation itself, can alter or modify these human rights and duties. Under these rules and principles, for instance, the imamate is a trust, with the imam as a trustee, acting within the general principles of the constitution and in accordance with public welfare.

As a unique and unprecedented Islamic institution, the imamate cannot produce its finest results except in a devout nation whose affairs are regulated by a clear constitution based on Shari'ah and changeable at the will of the nation within its specific regulations to meet the changing interests and needs of the community.

Experience through the ages has indicated that if a Muslim nation becomes

6. In Muslim history, there are many cases of rulers who established their authority in certain regions of a caliph's domain by force and later legitimized it by securing the caliph's consent. These rulers were usually called sultans or kings.

7. According to Muslim jurisprudence, *ijma'* (the agreed view of the Sahabah) can serve as one of the sources of constitutional law or other legislation. In descending order of importance, the sources of law in Islam are (1) the Qur'an, (2) *sunnah* or tradition, (3) *ijma* and (4) *qiyas*, which means analogical deduction, that is, arriving at an answer by deduction from decisions in similar or parallel cases.

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corrupt and tyranny pervades all its ranks, the people will not be bound by the limits of the Shari'ah and disorder will prevail. Under such conditions, the rights and duties of both the governor and the governed would be neglected, strife would be rampant, and the supremacy of the law would be challenged. These calamities may only be averted by the re-establishment of an Islamic order and a constitution based on popular support, giving effect to the divine will. It would clearly embody those fundamental principles which are eternal as well as those of a subordinate nature susceptible to change in order to meet the interests of the public. For the Shari'ah has vested in us Muslims the right to exercise discretion and reason to achieve its purpose of securing stability, satisfaction, and the orderly Muslim life.

What, then, are the accepted principles regulating the office of the head of the Islamic state? After reviewing numerous opinions of Islamic scholars and jurists belonging to various schools of thought, and upon examinations of Islamic history, we feel that the Shari'ah, out of divine wisdom, laid down only a few basic principles pertaining to the office of the head of state. These basic principles include the installation of an imam, who should be of mature age and a man of wisdom, enjoy popular support, and be a person who draws on the assistance of good citizens and on the counsel of the natural leaders. In addition, he is expected to be a guardian over the interests of all his subjects and upholder of the law. But if he disobeys the commands of God and disregards the interests of the people, he will be repudiated. Apart from these few principles, the Shari'ah has left it to people to endeavor through reasoning to adopt whatever additional conditions may suit them best, in a manner compatible with the general tenets of Islam and its universal character.

On the question of national sovereignty and the principle that the nation is the source of all power within the accepted meaning of the present age, Islam has its own and independent course at variance with that of modern concepts of sovereignty.

Islam is universal religion with its proper ideology and principles relating to dogma, law, morals, ideals, rights, and obligations: it is not bound by locality, race, nationality, or colour. Thus Islam's concept of sovereignty lies in the Shari'ah. In other words, it lies in those eternal principles of Islam on which its mission has been predicated. Therefore, it is not the prerogative of a nation—as a whole or in part, whether in agreement with the head of state or not, whether represented by a constituent assembly or not—to tamper with the eternal charter of rights and duties ordained by God for all men, singly and collectively, in a particular land and throughout the human race at large. These principles are sovereign and eternal, because it is only by the will of God their continuity is maintained. This is a great and a fundamental Islamic concept, of which Islamic scholars should always be conscious. It should be advocated and made known particularly in this age, because it raises the common bonds of humanity above race or nationality and establishes human rights at a higher level than national sovereignty or national interests.

At the present time, sovereignty has different meanings to non-Muslims (and their emulators among Muslims) and to Muslims. In Islam, it comprises several component forces that combine to establish its authority. These are the Shari'ah, the nation, and the imam, who is the guardian of the Shari'ah and the chosen among the people. By virtue of these factors, the Islamic order is superior to others. It safeguards the general principles of morality and the foundations of

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public justice, human equality, and brotherhood. It predicates rights and duties upon principles of universality and eternity as commanded by the Almighty, and it thereby blocks the way to personal references and passions, fanaticism and partisanship. No nation, king, head of state, or layman can repudiate human rights and duties on the pretext that the nation is free in the exercise of its full sovereignty.

Hence, the meaning of sovereignty under the Shari'ah is different from that conceived of in the constitutions of non-Muslims as well as present Muslim constitutions that are modelled upon them, because these last rest on national sovereignty. As we have already indicated, in Islam, sovereignty does not materialize except through a combination of three elements: the Shari'ah, the nation represented by its leaders, and the chosen imam, the head of state. In them jointly lies the power called sovereignty. In early times, it resided with kings; outside Islam, in recent times, it belongs to the people; in Islam, it is embodied in this trinity.

This concept of sovereignty under Islam guards against human passions and indulgence in obtuse opinions. It is a safeguard for human rights and duties without parallel in the ideologies of nations either prior or subsequent to the establishment of Islam.

The expression of this sovereignty may not be exercised by a single will, as, for example, in the name of the people, represented by a majority party, or in the name of a king, or in the name of a dictatorship, whether communist or otherwise. It can only be exercised through the will of God, as expressed in His sacred Law, and the will of the state, as expressed through the nation and the government combined. From these joint three wills, human rights and duties are specified and safeguarded in all lands and at all times.

When, for instance, the Qur'an says "Lo! Allah enjoineeth justice and kindness, and given [to others],"⁸ and "Let not hatred of a people incite you not to act equitably; be just; that is nearer to piety and observance of duty,"⁹ and "O ye who believe! Be ye staunch in justice, witnesses for Allah, even though it be against yourselves or [your] parents or [your] kindred . . .,"¹⁰ then not the nation nor the imamate nor both together can go beyond justice and equity as directed by the Shari'ah even if it were to be done in the name of national sovereignty and the right of a country to what is called self-determination.

It follows that the nation itself should not be the sole source of power, in the sense of being at liberty to do anything it deems fit with itself or others. Such freedom of action is restricted by the principles of public morality, of justice, and of human rights and duties as ordained by God.

But the nation is completely free to adopt its own form of government and constitution and to enact statutes within the limits of this joint sovereignty. It is sovereign over all matters, but must conduct itself within the limits of the revealed Law of a higher authority, namely, that of God, the Source of existence, Who has placed man on earth and entrusted him with the responsibility of government with a view to safeguarding justice and equity. Thus says the Qur'an: "O David! Lo! We have set thee as a victory [made thee a ruler] in the earth; therefore judge aright between mankind, and follow not desire lest it beguile thee from the way of Allah. Lo! those who wander from the way of Allah have an awful doom,

8. *Qur'an*, 16:90.

9. *Ibid.*, 5:8.

10. *Ibid.*, 4:135.

forasmuch as they forgot the Day of Reckoning.”¹¹

Yes, the nation is the source of power, Under the Shari‘ah, kings and heads of state can only rule with the consent of the nation. It is the nation that sets up and regulates the state, elects its government, and determines what is in its interest and what is not. In all these matters, the nation is the source of power, a power which, however, must function within the orbit of Islamic principles.

Because it relates to divine directives, the sovereignty of the Shari‘ah may not be repudiated by individual or collective action or by any other force. All views or actions which form a barrier between the people on the one hand and justice and right as ordained by Islam on the other have no justification or support in the Islamic religion, even though they may have the support of the sultan or the nation. A nation may not trespass on the interests of people of other lands, or act through its laws and legislation without regarding the welfare of others. Likewise, the majority may not arbitrarily legislate against or act unjustly in relation to individual or collective rights on the assumption that it thereby expresses the general will or majority of the nation at a given time.

This concept of sovereignty imprinted on the minds of contemporary Islamic as well as non-Islamic nations, which inspires complete freedom of action in the national interest, is wrong from a theoretical Islamic point of view. Islam has established certain sacred principles of law for all mankind. It is bound by what is known as national interest if this interest is incompatible with the interest of all people. Its pursuit of the general welfare supersedes what may appear to be the welfare of a special community. On this point, the right arising from national sovereignty, as conceived by interpreters of modern democratic constitutions, is qualified by and subject to the general rights of humanity at large, as determined by Islam.

I have touched on three subjects in the course of discussing the basic forms of an Islamic state: consultation, the office of the head of state, and the sovereignty of the nation. These involve the major principles upon the interpretations of which constitutions generally are based. They have been provided by Islam through its historic evolution and by the views of Islamic jurists and theologians. They are unambiguous and well-defined with regard to established eternal principles, which are changeable and flexible wherever change and flexibility are desirable.

The principle objective of the discussion, now that people in all Islamic lands are examining the form of Islamic rule and the constitutions proper to themselves, is to demonstrate in particular to the Muslims by some examples that their religion is practical, that it does not entail hardships, and that the forms of Islamic constitutions may vary in order to serve the public interest and to realize what is good and avoid what is harmful so long as they remain within the limits of eternal Islamic principles.

Provided that Muslims act in good faith with due respect for the Shari‘ah and set up constitutional regimes compatible with their conditions, they will be establishing Islamic forms of government more suitable and beneficial to them than those systems in which they only imitate what are called communist democracies or capitalist democracies. In this way, the Muslim people would set an example for others, as they are called upon to do by the holy Qur‘an when it says, “Thus we have made you a middle nation”¹² — that is, opposed to all

11. *Ibid.*, 38: 26.

12. *Ibid.*, 2:143.

THE ISLAMIC STATE

extremes—and they would succeed in solving problems that have proved to be insoluble. They would also meet the spiritual and physical needs of man, thereby affording civilization and human life the two indispensable ingredients for peace, stability, and prosperity. A human being is no animal whose only concern is fulfillment of natural appetites; neither is he an angel whose total endeavours are directed towards the spirit. Adopting moderate courses has been a characteristic of the Islamic Message. It has taken into consideration the continuous needs of the spirit and the body. To regulate these needs, it enunciated eternal rules which may not be repudiated, and left subordinate matters subject to change in a manner consistent with the changing interest of this world.

The eternal Islamic Message is concerned with the public interest of humanity at large, which cannot be superseded by any interest claimed by a particular class or nation for itself. It has established public authority to define and regulate the particular rights and duties of citizens, provided that its power is derived from the three combined elements of sovereignty already defined and from its consistent loyalty to general human rights, which are also an integral part of the duties of any Islamic government. It has enjoined all nations to refrain from acting on the supposition of their supremacy and assuming that the interests of any one nation take precedence over those of another. In this regard, the Qur'an says,

“And be not like unto her who unravelth the thread, after she hath made it strong, to thin filaments, making your oaths a deceit between you because of a nation being more numerous [stronger] than another nation.”¹³

“Thus We have made you a middle nation, that ye may be witness over the people, and that the Prophet may be a witness over you.”¹⁴

13. *Ibid.*, 16:92.

14. *Ibid.*, 2:143.

FUNDAMENTALS OF AN ISLAMIC CONSTITUTION*

by *Maulana Abul Ala Maududi*

We reproduce below the relevant Quaranic verses and the authentic Traditions of the Prophet (peace be on Him), along with the constitutional principles which are deducible from them.

The Holy Qur'an says:

“The (right of) Command is for none but Allah.
He hath commanded that ye follow none but Him.
That is the right way (of life).”¹

This verse clearly points out that the authority of giving commands and the title to sovereignty is the sole prerogative of Allah. There is nothing in the text to confine His Sovereignty merely to its metaphysical aspects. It is directly addressed to mankind and is obviously all inclusive. It comprehends all spheres of human life: the doctrinal, moral, legal as well as political. The Qur'an itself specifically states that all these spheres of sovereignty belong to Allah alone, and it puts it in very clear terms that Allah is not only the Sustainer and the Lord of mankind but also its Sovereign and Ruler:—

“Say (O Muhammad) : I seek refuge in the Sustainer of mankind, the Sovereign (Ruler) of mankind, the Lord of mankind.”²

The Qur'an further lays down that Allah is the Master of the land and has no partner in His Sovereignty. Thus says the Qur'an :

“Say : O Allah! Owner of the Kingdom! Thou givest kingdom to whom Thou wilt and takest it away from whom Thou wilt.”³

“None is a partner in His Sovereignty.”⁴

The Qur'an declares very explicitly that God is the sole Creator and, therefore, to Him Alone should and does belong the right to rule over His Creation. The Qur'an says :

“Beware! His is the Creation and His is the (right to) Rule.”⁵

Obviously, the sovereignty which the Qur'an claims for God is not merely of the metaphysical type but is also legal and political. The Qur'an states this fact specifically in the following verses :

“Follow the revelation sent unto you from your Lord and do not follow the (so-called) guardians other than Him.”⁶

“And those who do not make their decisions in accordance with what has been revealed by Allah, are (in fact) disbelievers.”⁷

*Extract from '*Islamic Law and Constitution*' Islamic Publications Ltd., Lahore, Pakistan.

1. *Al-Qur'an*, XI : 40.
2. *ibid.*, CXIV : 1-3.
3. *ibid.*, III : 26.
4. *ibid.*, XVIII : 1110.
5. *Al-Qur'an*, VII : 54.
6. *ibid.*, VII : 3.
7. *ibid.*, V : 44.

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This conception of the political and legal sovereignty of God is one of the fundamental principles of Islam. Indeed, all Muslim jurists are agreed that legal sovereignty is the exclusive prerogative of God. Thus, for instance, in his famous book : *Al-Ihkam fi Usal al-Ahkam*, which deals with the principles of *Fiqh*, Allamah Amidi writes as follows :

“Know that none but Allah is the Sovereign and no command is worthy of obedience except that which is given by Him.”

Shaikh Muhammad Khadhiri, a modern Egyptian writer on Islamic jurisprudence, says in his book *Usal al-Fiqh* :

“As Command is the exclusive prerogative of Allah, none is entitled to give any Command but He.

This is a point on which all Muslims are agreed.”

It is quite clear from the above that a state becomes Islamic only when it recognises in clear terms the political and legal sovereignty of Allah and binds itself to His obedience and acknowledges Him as the Paramount Power Whose commands must be upheld, come what may.

SOVEREIGNTY VESTS IN GOD

All the prophets in general and the Holy Prophet Muhammad (peace be on him) in particular are the representatives of this political and legal sovereignty of God. As a corollary to this, the Prophets of God are entitled to the obedience of those who accept God as their Sovereign. It is, therefore, the bounden duty of every such individual, community and nation as believe in Divine Sovereignty to follow the pattern set by them and to submit to their decisions without demur. This principle has been very clearly enunciated in the Qur'an over and over again. A few verses are quoted below in proof thereof :

- (a) “Whoso obeys the messenger, obeys Allah.”⁸
- (b) “We never sent any Messenger, but for the sole purpose that he should be obeyed under the sanction of Allah.”⁹
- (c) “And take whatsoever Messenger gives you and abstain from whatsoever he forbids.”¹⁰
- (d) “O Muhammad! We have revealed this Book to you with Truth that you may judge among mankind by (the light) which Allah has shown to you.”¹¹
- (e) “Nay, O Muhammad! by the Lord, they will not be believers until they accept you as the final arbiter in all their disputes and submit to your decision whole-heartedly without any heartache.”¹²

From these verses we derive the second fundamental principle of the Islamic Constitution, namely, that it must also recognize the *Sunnah* of the Prophet as the source of law and must incorporate a specific article to the effect that neither the Executive nor the Legislature nor the Judiciary can issue orders or enact laws or pronounce verdicts contrary to the *Sunnah*.

8. *Al-Qur'an*, IV : 80.

9. *ibid*, IV : 64.

10. *ibid*, LIX : 7.

11. *ibid*, IV : 105.

12. *ibid*, IV : 65.

The Qur'an says :

“Allah has promised to those among you who believe and work righteous deeds, that He will most surely make them His Vicegerents in the earth as He had made the like people before them His vicegerents.”¹³

This verse enunciates two very important constitutional principles :

- (1) The real status of an Islamic State is not that of a Sovereign but that of a vicegerent.
- (2) In an Islamic State, the powers of “vicegerency”, are vested not in any one individual or family or group but in the whole Muslim community — of course, when it is blessed with the possession of an independent state.

The concepts of ‘Sovereignty’ and ‘Vicegerency’ need some elucidation. It is inherent in the very conception of sovereignty that the authority of the sovereign power should neither be limited by any power other than its own free-will nor bound by any law imposed from outside. Thus, if a state acknowledges that the injunctions of God and His Messenger are above question, and neither its executive can issue any order nor its legislature can pass any laws nor its judiciary can give any verdict repugnant to them: it means that it has surrendered its claim to sovereignty in favour of God and His Messenger. On this acknowledgment its position automatically becomes that of an agent or vicegerent of God and His Messenger. To say that such a state possesses absolute sovereignty (except with reference to other states of the world) would be a contradiction in terms. No doubt, an Islamic State is a sovereign state in the real sense of this term *vis-a-vis* the other states of the world, but if it tries to assert its sovereignty *vis-a-vis* the commands of God and His Messenger, this will amount to the clear negation of its Islamic character.

As to the second principle, it should be noted that Islam vests all the Muslim citizens of an Islamic State with ‘vicegerency’. Thus the ‘vicegerency’ in an Islamic State is popular and not limited to any person, class or clan. And it is the ‘popular vicegerency’ that forms the basis of democracy in an Islamic State while ‘popular sovereignty’ is its basis in a secular state. In the Islamic polity, the term ‘vicegerency’ has been adopted because the authority that vests in this society and its state is delegated by God and can be wielded only within the limits prescribed by Him. But as explained above, this authority is delegated to the Muslim community of the state as a whole and not to any particular individual or group. As a result of this, the government can be formed only with the consent of all the Muslims or their majority and can function and remain in power only as long as it enjoys their confidence. That is why Caliph Abu Bakr refused to be called the ‘vicegerent of God’, as he was not directly appointed by God but was elected by the Muslim community to wield the delegated authority on their behalf.

These two principles demand that the constitution of an Islamic State must forsake all claims to absolute sovereignty and declare in unequivocal terms that it is merely the vicegerent of God and its function is to execute His will and commandments.

13. *Al-Qur'an XXIV : 55.*

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MUTUAL CONSULTATION

How this principle of 'Popular Vicegerency' should be translated into action has been described clearly in the following verse :

"They manage their affairs by mutual consultation." ¹⁴

This verse tells us the distinctive feature of the Islamic way of life, namely, that all collective affairs are performed by mutual consultation. The context in which this verse occurs, it is evident that it is not a mere statement of fact but an injunction and a command. In this connection Khatib al-Baghdadi quotes the following from Caliph 'Ali :

"I said, 'O Messenger of Allah! what should we do if, after your demise, we are confronted with a problem about which we neither find anything in the Qur'an nor have anything from you?' He replied: 'Get together the obedient (to God and His Law) people from amongst my followers and place the matter before them for consultation. Do not make decisions on the basis of the opinion of any single person.'" ¹⁵

Pointing out the true spirit of consultation, the Holy Prophet (peace be on him) says :

"The man who gives a counsel to his brother knowing full well that it is not right, does most surely betray his trust." ¹⁶

As regards the mode of consultation, it has been very wisely left to the discretion of Muslims. Islam does not prescribe any definite form for the formation of the consultative body or bodies for the simple reason that it is a universal religion meant for all times. It does not, therefore, lay down whether the people should be consulted directly or through their accredited representatives; whether the representatives should be elected in general elections or through electoral colleges; whether consultative body should have one house or two houses, etc. Obviously, these are matters of detail and can vary with different societies and under different conditions. That is why the *Shari'ah* leaves these problems open for solution according to the needs of time. The following three things, however, are essential in the light of the Quaranic verse and the Traditions of the Prophet cited above :

- (1) As no collective matter of the Muslims should be conducted without consulting the people concerned, this rule will apply in the very first instance to the appointment of the Head of the State. As such, it rules out monarchy, despotism and dictatorship. Incidentally, it does not permit the Head of the State to enjoy the power of suspending the constitution at his will, for during the period of suspension he would be nothing short of an autocrat.
- (2) All the people concerned should be consulted directly or through their trusted representatives.
- (3) The consultation should be free, impartial and genuine. Any consultation held under duress or temptation is in reality no consultation at all.

14. *Al-Qur'an*, XLII : 38.

15. *Alusi*, *Ruh al-Ma'ani*

16. *Related by Abu Da'ud*.

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Thus, whatever the details of the Constitution, these three principles of the Shari'ah must be observed, and no loophole should be left whereby anyone gets the opportunity at any time to govern without consulting the people or their accredited representatives. Furthermore, the Islamic Constitution must devise such a system of election as may enable the whole community to give their verdict without any tinge of fear, favour or fraud.

QUALIFICATIONS OF HEAD OF STATE

As regards the qualifications of the Head of the State, the Ministers, the members of the Consultative body and the officers in general, the following instructions are found in the Qur'an and the *Sunnah* :

The Holy Qur'an says :

- (a) "Verily, Allah Commands you to make over trusts (*i.e.*, positions of responsibility to those who are trustworthy.)" ¹⁷
- (b) "As a matter of fact, the noblest of you in the sight of Allah is the one who is most God-fearing." ¹⁸

The Holy Prophet (peace be on Him) says :

- (a) "Your best leaders are those whom you love and who love you and for whom you pray and who pray for you, (while) your worst leaders are those whom you hate and who hate you and whom you curse and who curse you." ¹⁹
- (b) "By God, we do not assign the affairs of our government to any one who aspires for it or is greedy in respect of it." ²⁰
- (c) "We consider the seeker after a post (of trust and responsibility) as the most untrustworthy." ²¹

Not only the Qur'an and the *Sunnah* but also our history testifies that Islam abhors the very idea of 'a person seeking after positions of trust'. Thus we are told by Qalqashandi :

"It is related of Abu Bakr that he enquired of the Messenger of Allah about appointments on posts of trust. He replied : 'They are for those who do not aspire for them and not for those who are greedy after them; they are for those who run away from them and not for those who scramble for them; they are for those to whom they are offered (without asking) and not for those who claim them as their right'". ²²

Although the instructions contained in the above-mentioned quotations are of a general nature and do not specify any particular machinery of election for bringing the right type of people to the helm of affairs, it is the duty of the constitution-makers of today to devise practical means for putting these injunctions into practice. They should evolve such a system of elections as would ensure the appointment of only those who are trustworthy and pious, are loved

17. *Al-Qur'an*, IV : 58.

18. *Al-Qur'an*, XLIX : 13.

19. *Related by Muslim*.

20. *Related by Bukhari and Muslim*.

21. *Related by Abu Da'ud*.

22. *Qalqashandi, Subh al-A 'Sha, Vol. I, p. 240*.

by the people and are their well-wishers. They should also devise effective measures to defeat the designs and machinations of those who scramble for posts of trust and are consequently hated and cursed by the people in spite of their so-called "victories" in the elections.

The Qur'an states that :

"(Muslims are) those who, if We give them power in the land, establish the systems of *Salat* (worship) and *Zakat* (poor-due) and enjoin virtue and forbid evil." ²³

This verse states clearly the aims, objects and duties of an Islamic State. Unlike a Secular State, its duty is not merely to maintain internal order, to defend the frontiers and to work for the material prosperity of the country. Rather, its first and foremost obligation is to establish the systems of *salat* and *zakat*, to propagate and establish those things which are considered to be 'virtues' by God and His Messenger, and to eradicate those things which have been declared to be 'vice' by Them. In other words, no state can be called Islamic if it does not fulfil this fundamental objective of an Islamic State. Thus a state which does not take interest in establishing virtue and eradicating vice and in which adultery, drinking, gambling, obscene literature, indecent films, vulgar songs, immoral display of beauty, promiscuous mingling of men and women, co-education, etc. flourish without let or hindrance, cannot be called an Islamic State. An Islamic Constitution must declare the above-mentioned objective as the primary duty of the State.

We have been told in the Qur'an :

"O you who believe, obey Allah and obey His Messenger and those from among yourselves who hold authority, and if there is any dispute between you concerning any matter, refer it to Allah and His Messenger, if you (really) believe in Allah and the Last Day. This is the best course (in itself) and better as regards the result." ²⁴

This verse enunciates three most important constitutional principles :

- (1) Muslims are bound to obey Allah and His Messenger individually and as a community, and this obedience must be given priority to every other obedience. Consequently, obedience to everybody else comes after this and not before that, and it is subject to it and not independent of it.

The following verses and traditions also support the same point :

- (a) "It is not for a believing man or a believing woman to have a say in any affair when it has been decided by Allah and His Messenger; and whoever disobeys Allah and His Messenger, he goes astray manifestly." ²⁵
- (b) "Those who do not make decisions in accordance with that which Allah has revealed, are dis-believers. . unjust. .transgressors." ²⁶
- (c) "A Muslim must listen to and obey the ruler whether he approves of what is ordered or abhors it, provided he is not ordered to commit

23. *Al-Qur'an*, XXII : 41.

24. *ibid.*, IV : 59;

25. *Al-Qur'an*, XXXIII : 36.

26. *ibid.*, V : 44, 45, 47,

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- sin. In that case, he should neither listen nor obey.”²⁷
- (d) “Even if an ugly and deformed slave is elected as your ruler and he conducts your affairs in accordance with the teachings of the Book and the *Sunnah*, you must listen to and obey him.”²⁸
- (e) “There is no obedience in sin; it is only in virtue.”²⁹
- (f) “There is no obedience for those who disobey Allah.”³⁰
- (g) “There is no obedience to the Creator if it involves disobedience to the Creator.”³¹

The above-mentioned injunctions of the Qur'an and the *Sunnah* definitely point out that in an Islamic State the legislature has no right to make laws, the executive has no right to issue orders and the law courts have no right to decide cases in contravention of the teachings of the Qur'an and the *Sunnah*; and if they do so, the Muslims have no obligation to obey them. Not only that, the fact of the matter is that if they disobey them, they will be perfectly within their right and will not be committing any sin. Furthermore, if anything is proved to be right in the light of the Qur'an and the *Sunnah*, it cannot be rejected by any judge or authority on the ground that it is in conflict with any order of the Government or any law enacted by the legislature. In such a case it is that order or the legislative enactment which is in conflict with Shari'ah – and not the Shari'ah – that should be declared *ultra vires* of the constitution and set aside.

- (2) Muslims alone can be the rulers in an Islamic State. The verse (IV:59) quoted above clearly lays down : ‘obey those *from among yourselves* who hold authority’. It means that it is the Muslim rulers whom the Muslims have been asked to obey. Moreover, in case of a dispute between the rulers and the ruled, both have been ordered to refer the matter to Allah and His Messenger and it is only a Muslim ruler who can agree to refer the dispute to Allah and His Messenger.

After these clarifications, it is quite clear that there is absolutely no scope for making any provision in the constitution of an Islamic state for a non-Muslim to become a ruler. And, to do so would be as irrational and impracticable as would be a non-Communist becoming the ruler of a Communist state or a Fascist becoming the ruler of a democratic state..

- (3) The verse (IV : 59) also gives the people the right to differ with their rulers. In that case, the verdict of Allah and His Messenger is to be taken as final both by the rulers and the ruled. This implies that there must be some institution for deciding such disputes in the light of the Qur'an and the *Sunnah*. But the *Shari'ah* does not prescribe any definite form for this purpose. It may be a body of '*Ulama* or it may be in the form of a Supreme Court. The verse demands that there must be some institution for this purpose.³²

27. Related by Bukhari and Muslim.

28. Related by Muslim.

29. Related by Bukhari and Muslim.

30. Tibrani.

31. Sharh al-Sunnah.

32. Maulana Maududi has preferred the supreme court as the repository of this authority.

JUSTICE

The Qur'an says :

“Lo! Allah commandeth you to repose trust with the trustworthy and when you judge between people, judge justly.” (IV : 58)

“Let not the enmity of any people seduce you from doing justice (to them). Do justice (in every case) for it is nearer to piety.”³³

These verses enjoin the Muslims to do justice individually as well as collectively. An Islamic State is, therefore, bound to be just, for it is the most powerful institution for administering justice among people. If there is no justice in its own affairs, there can be no justice in the society in general.

The Holy Prophet (peace be on Him) and his Rightly Guided successors (Khulafa-e-Rashideen) also have impressed the importance of doing justice between the people, as for instance :

- (1) In his well-known address on the occasion of his last pilgrimage to Mecca, the Holy Prophet enunuciated some fundamental principles of an Islamic State. One of them was :

“Most surely, your life, your property and your honour are as sacred as this day of *hajj* (pilgrimage).”³⁴

This declaration of fundamental human rights binds an Islamic State to scrupulously safeguard the life, property and honour of all its citizens.

- (2) At the same time, the Holy Prophet himself has specified as to when this sanctity can be set aside:

He says :

- (a) “When the people do this (that is, stand witnesses for the sovereignty of Allah and the truth of Prophethood, establish *Salat* and pay *Zakat*), they will save their lives from me (*i.e.*, the state) except when they commit a crime against the law of Islam. And as regards the assessment of their intentions, Allah alone can be the judge.”³⁵

- (b) “Their lives and their properties are sacred to us except when they violate the sanctity of the life and property of others : and Allah alone is the judge of intentions.”³⁶

- (c) “Then any one who recites it (the *Kalimah of Tawheed*) is entitled to the protection of his life and property so long as he does not make himself liable for their forfeiture before Allah's (Law) and Allah alone is the judge of intentions.”³⁷

These traditions guarantee the sanctity of life, property and honour within the limits of Islamic Law and though, in their context, they refer to Muslims only, it is an agreed principle of Islamic *Shari'ah* that all non-Muslims who live under the protection of an Islamic State are entitled to the same rights that the Muslims enjoy.

- (3) As regards the procedure to be adopted for the administration of

33. *Al-Qur'an*, V : 8.

34. *Related by Bukhari and Muslim*.

35. *ibid.*

36. *ibid.*

37. *Related by Bukhari*.

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justice, the Holy Prophet (peace be on Him) has laid down the following rule :

“When two persons bring a dispute to you for decision, do not deliver a judgement unless you have given an equal hearing to both of them.”³⁸

In a case decided by Caliph ‘Umar, he makes the following elucidation :

According to the Islamic Law, none can be imprisoned without (doing full) justice (to him).”³⁹

We learn from the details as given in *Muwatta* that, in the newly conquered territory of Iraq, some people began to backbite and make false allegations against one another and, in this way, were responsible for sending many persons behind bars. When such complaints were brought before Caliph ‘Umar, he passed the above order. It meant that no one could be imprisoned without a regular trial in a law court and without giving him full opportunity to defend himself.

(4) When the *Kharijites* who did not believe in any State, rose in revolt during the *khilafat* of Caliph ‘Ali, he wrote to them :

“You may live and move about wherever you like provided you do not shed blood or spread chaos and resort to terrorism. But if you are guilty of any of these, I will go to war against you.”⁴⁰

This means no action would be taken against anyone, whatever political ideas he might hold, so long as he does not try to overthrow the government by violent means.

From these details it must have become perfectly clear that the Islamic concept of justice does not allow the executive to be given the powers to arrest or imprison or exile or suppress the rights of belief, opinion, expression of anybody without the due process of law that meets the ends of justice.

Moreover, we learn from authentic traditions that Islam does not allow any differentiation or discrimination between the rulers and the ruled or the high and the low in matters of law and justice. There is and can be only one and the same law, the same procedure and the same courts for all of them. Before his demise, the Holy Prophet (peace be on him) presented his own self for the satisfaction of any claim that any one might have against him. Similarly, Caliph ‘Umar forced Jabalah bin Aiham Ghassani, the ruler of a native state, to satisfy the claim of a common man against him. He also categorically refused to comply with the request of ‘Amr al-‘A’s for legal safeguards for the governors. Not only that, he gave everybody the right to sue in ordinary courts any governor and the highest officers of the state.

ECONOMIC SECURITY

The Holy Qur’an says :

(a) “In their wealth the beggar and the destitute have their due.”⁴¹

(b) “Purify them (of vice) and develop them (in virtue) by taking

38. Related by Abu Daud, Tirmizi and Ahmad.

39. Related by Malik, *Muwatta*.

40. Related Shaukani, *Nail-al-Autar*.

41. *Al-Qur’an*, LI : 19.

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Zakat from their wealth and pray for them.”⁴²

The Holy Prophet says :

- (a) “Allah had made *Zakat* obligatory upon the Muslims. It is to be collected from the wealthy among them and distributed among their needy ones.”⁴³
- (b) “The Government is the guardian of any one who has no other guardian.”⁴⁴
- (c) “If any one dies while he owes a debt and does not leave behind any property for its payment, then the responsibility is mine. But if any one leaves any property behind, (the responsibility devolves upon) his inheritors.”⁴⁵

According to another tradition :

- (d) “Anyone who dies in debt or leaves behind dependents who are in danger of becoming destitutes, they should come to meet me because I am their guardian.”⁴⁶

In the words of yet another tradition :

- (e) “If anyone leaves behind property, it will go to his heirs, but if anyone leaves behind some liabilities (instead), the burden of their responsibility falls on us (i.e., the State).”⁴⁷

A similar tradition is related by Abu Da’ud :

- (f) “If a person leaves behind no inheritor, I shall be his inheritor, both for paying off his liabilities and inheriting his property.”⁴⁸

These verses and traditions clearly point out that one of the major duties of an Islamic State is to establish the system of *Zakat* and that it carries on its shoulders the responsibility of providing for all those who are destitute and helpless.

42. *ibid.*, IX : 103.

43. Related by Bukhari and Muslim.

44. Related by Abu Da’ud, Tirmizi, Ibn Majah, Darmi, Musnad-e-Ahmad.

45. 46, & 47. Related by Bukhari and Muslim.

48. Related by Abu Da’ud.

THEOCRACY RULED OUT *

by Dr. Said Ramadan

Theocracy, a word derived from the Greek word "theos," meaning "God," is a vague title attached to governments or states governed by God directly or through a sacerdotal class.¹ Centuries of history have endowed this governmental system with an aura of inscrutability and a dark background of evil and horror. The concept of an "Islamic State," owing to its very designation, has had to suffer from the implications that accompany the seemingly parallel title, "theocracy." No less a difficulty than the non-Muslim writers' failure to understand this problem was the influence of Western history on many Muslim writers. The long Western struggle between State and Church is of a nature quite alien to Islamic thought; for Islam does not authorize any material form, human or institutional, that could claim to be representative of God. God is God and man is man. The Prophet was a bearer of Revelation, and both were terminated by the Prophet's passing away.

The Divine Laws that Muhammad left behind are God's laws, but they are not God. They were revealed and conveyed in clear Arabic with its linguistic rules common for all purposes of expression, and through the human example of the Prophet. And the Prophet was but a man² who, though perfect, passed away. It is the Divine Laws which remain, being no more than an enjoinder on the believers to adhere to them in practice. It is the Muslim belief that no man, or class of people, or mosque is privileged with a private relationship with God or a special right to speak to Him. God spoke only to Prophets, and all other men stand on equal footing. Muslims differ with regard to the Divine texts, in interpretation or in application, just as they differ with regard to any other code or law. There is no authority beyond the text itself, and the authority of the text extends only as far as its language implies and human thought may comprehend. All men are human: no man is impeccable or infallible.

In clear contrast to the Western concept of "theocracy," Islam was a revolt against all anthropomorphic implications in the realm of faith. This can well explain the peculiar expression "*une theocratie laique et egalitaire*"³ which Louis Gardet coined to characterize Islam: a peculiarity of expression revealing an inability to understand an ideology which is neither theocratic nor secular, in the expressional sense which either of these terms conveys. It is the impact of this paradox which renders Islam difficult to define. Prof. Gibb, however, came very close to such a definition when he remarked that "it is characteristic of the practical bent of the Islamic community and of its thought that its earliest activity and most highly developed expression is in law rather than in theology."⁴ Notwithstanding the explanation he gave for this and the many deviations from which the Muslim community afterwards suffered, it should be noted that the "earliest activity" to which Prof. Gibb referred represents the prophetic, that is, the authentic, introduction of Islam. Let us also suggest here that it might have been a deliberate plan — as, in fact, the Muslims believe it to be — and not a lack of genius that prescribed law rather than luxurious theological thought as

* Extract from '*Islamic Law - Its Scope and Equity*' Geneva, Switzerland.

1. *The Concise Oxford Dictionary*, p. 1321

2. *Qur'an* 18: 110 — "Say I am only a mortal like you. It is revealed to me that your God is one God. So whoever hopes to meet his Lord he should do righteous deeds and make none sharer of worship due unto his Lord.

3. Louis Gardet, *La Cite Musulmane: Vie Sociale et Politique*, Paris, 1954, p.31.

4. H.A.R. Gibb, *Mohammedanism*, p. 72. 29

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the criterion of factual faith and as the practical test of man, enabling him live in accordance with his beliefs. A code of action, not mysterious outlets, is the characteristic feature of Islam.

Within the Muslim concept, religion is not entirely a private affair between man and God. A privacy is there, and in fact it constitutes the essence of all religious experience. But even in this privacy the individual is ruled by a code of law which is binding on all. And this privacy is never allowed to establish any kind of "sanctity" in a man or in a class of men. Even in Muhammad's authority over the Muslims, there is a clear line between the Revelation given to him and himself as a human being. His followers' complete faith in his prophethood went hand in hand with a comprehension of his humanness. In the famous Battle of Badr he was asked, "This place where we have been stationed, is it God's ordained selection (by Revelation), or is it your plan?" He replied, "It is my plan". Then said Al-Hubab Ibn al-Mundhir, "This does not seem to be the proper stationing." And he suggested some other place for reasons which he explained. The Prophet, convinced by this reasoning, ordered the Muslim army to change its position.

Even more explicit are his famous words, uttered when judging a case, "It may be that some of you fail to prove his right in the case. I am but a human being. If my judgement wrongly favours one undeserving, this shall only take him to Hell."

The early Caliphs were always careful to clarify their status as rulers under the Law, and not above it. "Caliph" is an Arabic word meaning "successor." They were designated as successors of the Prophet on the understanding that they succeeded the Prophet only in the sense of carrying out whatever commandments he had left his followers. Revelation having been terminated, the Caliph was no more than a human being appointed by the whole community in consideration of his capacity to rule. It was a public meeting at Saqifah (a place in Madinah) that resulted in the selection of Abu Bakr as the first Caliph. And it was this same Abu Bakr who assumed his office with the declaration: "I have been appointed as your ruler, but I am not the best among you. If I am right, then help me. If I am wrong, you should set me right."⁶

A grave misconception, however, has arisen on the basis of a misquotation of the Qur'an. The word "caliph" was used in the Qur'an in two places,⁷ meaning the "successor" or the "viceroy." It was used in the plural in six other injunctions and its verb, *istakhlafa* and *khalafa*, in another eight. But none of these can serve as a proof-text for those who characterize the Caliph as the Viceroy of God. The very first of these quotations testifies, rather, to something else. It reads as follows: "And when thy Lord said unto the angels: 'Lo! I am about to place a caliph in the earth', they said: 'Will Thou place therein one who will do harm therein and will shed blood, while we, we celebrate Thy praise and sanctify Thee'? He said: 'Surely I know that which ye know not. And He taught Adam all the names...'"⁸ The angels themselves did not conceive any Divine status in the word "caliph," as attributed by God to Adam. And even if it could ever imply anything of the sort, it should be applicable to every human being of whom Adam was the father and the model. *Khalafa*, the origin of *khalif* (or "caliph" as it is usually written in English), means, "to take place of someone in his absence," and thus it cannot literally apply in relation to God, who is always

5. *Ibn Hisham Vol I p. 620 2nd edanism, published by Mustafe al-Halabi, Cairo.*

6. *Al-Kudhari, Tarikh al-Umam al-Islamiyyah, Arabic, Vol., I, p. 170.*

7. 2: 30 and 38: 25-26

8. 2: 30-31

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present. It can only be a figurative expression, which is characteristic of the Arabic language and which should be interpreted within its context. That is why we consider the word "ruler" to be the best translation of the word "caliph" in these injunctions, thus meaning the power delegated by God to His creature Adam (and thereby to all mankind), whereby the latter rules over other creatures. And if the Arabic word "caliph" can be translated – in this sense and in these particular injunctions – as the "Viceroy of God," it should not be confused with the "Caliph of the Prophet," which means no more than the "Successor of the Prophet." Prof. Gibb, after surveying the mistaken characterization of the Caliph as the Viceroy of God, had to remark: "But at the very heart of their theory there lay a contradiction of which the Muslim jurists were well aware, though it seldom found expression in their expositions. For the fundamental loyalty of the Muslim is given not to the imam (caliph or ruler) but to the Shari'ah (Islamic law)." ¹⁰

In his book *Mohammedanism*, he had to repeat it on many occasions and in different forms. "True," he said, "there was at one time the Caliphate. But the Caliphate was not a Papacy, and from Umayyad times on, the theologians and legists had resolutely refused to concede to it any spiritual authority."¹¹ Again he said: "In orthodox Islam the Caliph has no interpretative functions and cannot define dogma."¹² Prof. Anderson explicitly remarked that, "true, it is the duty of the Caliph or Sultan to lead the Muslim community in war and act as its executive in peace, but he is under, not above, the sacred Law and may not meddle in what God has prescribed."¹³

It was under the Caliphate, and in sharp contrast to the intolerable yoke of theocracy in the European Middle Ages, that the state ruled by Islamic Law in Spain became the acknowledged centre of free thought. Says Alfred Guillaume: "Scholars from the West visited Spain to learn philosophy, mathematics, astronomy and medicine. The oldest European universities owe an enormous debt to those scholars who returned from Spain bringing with them the knowledge they had gained at the Arab universities of that country."¹⁴

In brief, it may be said that the rule of Islamic Law can never lead to "theocracy," for the simple reason that the absence of any priestly hierarchy lies at the very root of its conception of religion.

9. *The Holy Qur'an, commentary by Muhammad Ali*, p.17.

10. Gibb, *Constitutional Organization, treatise in Law in the Middle East*. p.5.

11. Gibb, *Mohammedanism*, p.20. In the first page of this book, the author states that Muslims dislike the terms *Mohammedan* and *Mohammedanism*, which seem to them to carry the implication of worship of Muhammad, as *Christian* and *Christianity* imply worship of Christ.

12. *Ibid*, p.96

13. J.N. Anderson, *Reflections on Law, Natural, Divine and Positive*, lecture held at the 940th Ordinary Meeting of the Victoria Institute at The Caxton Hall, Westminster, Dec. 10, 1956, p.14.

14. A. Guillaume, *Islam*, Pelican Books, 1954, p.85.

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Caliph Ali Bin Abi Talib's Famous Epistle to Malik Ashtar, Governor of Egypt

THE RICHEST TREASURE

Be it known to you, O, Malik, that I am sending you as Governor to a country which in the past experienced both just and unjust rule. Men will scrutinize your actions with a searching eye, even as you used to scrutinize the actions of those before you, and speak of you even as you did speak of them. The fact is that the public speak well of only those who do good. It is they who furnish the proof of your actions. Hence the richest treasure that you may covet should be the treasure of good deeds. Keep your desires under control and deny yourself that which you have been prohibited from, for, by such abstinence alone, you will be able to distinguish between what is good to them and what is not.

Develop in your heart the feeling of love for your people and let it be the source of kindness and blessing to them. Do not behave with them like a barbarian, and do not appropriate to yourself that which belongs to them. Remember that the citizens of the state are of two categories. They are either your brethren in religion or your brethren in kind. They are subject to infirmities and liable to commit mistakes. Some indeed do commit mistakes. But forgive them even as you would like God to forgive you. Bear in mind that you are placed over them, even as I am placed over you. And then there is God even above him who has given you the position of a Governor in order that you may look after those under you and to be sufficient unto them. And you will be judged by what you do for them.

Do not set yourself against God, for neither do you possess the strength to shield yourself against His displeasure nor can you place yourself outside the pale of His mercy and forgiveness. Do not feel sorry over any act of forgiveness, nor rejoice over any punishment that you may mete out to any one. Do not rouse yourself to anger, for no good will come out of it.

Do not say : "I am your overlord and dictator, and that you should, therefore, bow to my commands", as that will corrupt your heart, weaken your faith in religion and create disorder in the state. Should you be elated by power, ever feel in your mind the slightest symptoms of pride and arrogance, then look at the power and majesty of the Divine governance of the Universe over which you have absolutely no control. It will restore the sense of balance to your wavered intelligence and give you the sense of calmness and affability. Beware! Never put yourself against the majesty and grandeur of God and never imitate His omnipotence; for God has brought low every rebel of God and every tyrant of man.

Let your mind respect through your actions the rights of God and the rights of man, and likewise, persuade your companions and relations to do likewise. For, otherwise, you will be doing injustice to yourself and injustice to humanity. Thus both man and God will turn into your enemies. There is no hearing anywhere for one who makes an enemy of God himself. He will be regarded as one at war with God until he feels contrition and seeks forgiveness. Nothing deprives man of divine blessings or excites divine wrath against him more easily

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than cruelty. Hence it is that God listens to the voice of the oppressed and waylays the oppressor.

THE COMMON MAN

Maintain justice in administration and impose it on your own self and seek the consent of the people, for the discontent of the masses sterilises the contentment of the privileged few and the discontent of the few loses itself in the contentment of the many. Remember, the privileged few will not rally round you in moments of difficulty : they will try to side track justice, they will ask for more than what they deserve and will show no gratitude for favours done to them. They will feel restive in the face of trials and will offer no regret for their short-comings. It is the common man who is the strength of the State and of Religion. It is he who fights the enemy. So live in close contact with the masses and be mindful of their welfare.

Keep at a distance of him who exposes the weaknesses of others. After all, the masses are not free from weaknesses. It is the duty of the ruler to shield them. Do not bring to light that which is hidden, but try to remove those weaknesses which have been brought to light. God is watchful of everything that is hidden from you, and He alone will deal with it. To the best of your ability cover the weaknesses of the public, and God will cover the weaknesses in you which are anxious to keep away from their eyes. Unloose the tangle of mutual hatred between the public and the administration and remove all those causes which may give rise to strained relations between them. Protect yourself from every such act as may not be quite correct for you. Do not make haste in seeking confirmation of the tell-tale, for he is a deceitful person appearing in the garb of a friend.

THE COUNSELLORS

Never take counsel of a miser, for he will vitiate your magnanimity and frighten you of poverty. Do not take counsel of a coward also, for he will cheat you of your resolves. Do not take counsel of the one who is greedy too : for he will instill greed in you and turn you into a tyrant. Miserliness, cowardice and greed deprive man of his trust in God.

The worst of counsellors is he who has served as a counsellor to unjust rulers and shared their crimes. So never let men who have been companions of tyrants or shared their crimes be your counsellors. You can get better men than these, men gifted with intelligence and foresight, but unpolluted by sin, men who have never aided a tyrant in his tyranny or a criminal in his crime. Such men will never be a burden on you. On the other hand, they will be a source of help and strength to you at all times. They will be friends to you and strangers to your enemies. Choose such men alone for companionship both for friendship and as colleagues in work. Even among these, show preference to those who have permanent regard for truth, however trying at times this may prove to you and who offer you no encouragement in the display of tenderness which God does not like his friends to develop.

Keep near to you the upright and the God-fearing, and make clear to them

that they are never to flatter you and never to give you credit for any good that you may not have done : for the tolerance of flattery and unhealthy praise stimulates pride in man and makes him arrogant.

Do not treat the good and the bad alike. That will deter the good from doing good, and encourage the bad in their pursuits. Give credit to where it is due. Remember that mutual trust and goodwill between the ruler and the ruled are bred only through benevolence, justice and service. So, cultivate goodwill amongst the people, for their goodwill alone will save you from troubles. Your benevolence to them will be repaid by their trust in you, and your ill-treatment by their hostility.

Do not dis-regard the noble traditions set by our forbearers which have promoted harmony and progress among the people; and do not initiate anything which might minimise their usefulness. The men who had established those noble traditions have had their reward; but responsibility will be yours if they are disturbed. Try always to learn something from the experience of the learned and the wise, and frequently consult them in state matters so that you might maintain the peace and goodwill which your predecessors had established in the land.

THE DIFFERENT GROUPS OF PEOPLE

Remember that the society consists of different types of people. The progress of one is dependent on the progress of the other; and none can afford to be independent of the other. We have the Army formed of the soldiers of God; we have our civil officers and their establishments; our judiciary; our revenue collectors and our public relations officers. The general public itself consists of Muslims and *Zimmis* and among them are merchants and craftsmen, the unemployed and the indigent. God has prescribed for them their rights, duties and obligations. They are all defined and preserved in the Book of God and in the traditions of His Prophet.

The Army, by the grace of God, is like a fortress to the people and lends dignity to the state. It upholds the prestige of the Faith and maintains the peace of the country. Without it the state cannot stand. In its turn, it cannot stand without the support of the state. Our soldiers have proved strong before the enemy because of the privilege God has given them to fight for Him; but they have their material needs to fulfil and have therefore to depend upon the income provided for them from state revenue. The military and the civil population who pay revenue, both need the co-operation of each other — the judiciary, civil officers and their establishment. The *Qazi* administers civil and criminal law; the civil officers collect revenue and attend to civil administration with the assistance of their establishment. And then there are the tradesmen and the merchants who add to the revenue of the state. It is they who run the markets and are in a better position than the others to discharge social obligations. And then there is the class of the poor and the needy whose maintenance is an obligation on the other classes. God has given appropriate opportunity of service to one and all; and then there are the rights of all these classes over the administration which the administrator has to meet keeping an eye on the good of the entire population, a duty which he cannot fulfil properly unless he takes a personal interest in its execution and seeks help from God. Indeed, it is obligatory on him

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to impose this duty on himself; and to bear with patience the inconvenience and difficulties that are part of the task.

THE ARMY

Be particularly mindful of the welfare of those in the army who in your opinion, are staunchly faithful to their God and Prophet and loyal to their chief, and who in the hour of passion can restrain themselves and listen calmly to sensible remonstrance, and who can succour the weak and smite the strong, whom violent provocation will not throw into violent temper and who will not falter at any stage.

Keep yourself in close contact with families of established reputation and integrity with a glorious past, and draw yourself men brave and upright in character, generous and benevolent in disposition; for such are the salt of society.

Care for them with the tenderness with which you care for your children and do not talk before them of any good that you might have done to them nor disregard any expression of affection which they show in return; for, such conduct inspires loyalty, devotion and goodwill. Attend to every little of their wants not resting content with what general help that you might have given to them, for sometimes, timely attention to a little want of theirs brings them immense relief. Surely these people will not forget you in your own hour of need.

It behoves you to select for your Commander-in-chief one who imposes on himself, as a duty, the task of rendering help to his men, and who can excel in kindness every other officer in attending to the needs of the men under him, and looking after their families when they are away from their homes; so much so, that the entire army should feel united in their joys and in their sorrows. This unity of purpose will give them added strength against the enemy. Continue to maintain a kindly attitude towards them so that they might feel ever attached to you. The fact is that the real happiness of the administrators and their most pleasant comfort lies in establishing justice in the state and maintaining affectionate relations with the people. Their sincerity of feeling is expressed in the love and regard they show to you, on which alone depends the safety of the administrators.

Your advices to the army will be of no avail, unless and until you show affection to both men and officers, in order that they might not regard the Government as an oppressive burden or contribute to its downfall.

Continue to satisfy their needs and praise them over and over again for what services they have rendered. Such an attitude, God willing, will inspire the brave to braver actions and induce the timid to deeds of bravery.

Try to understand the feelings of others and do not foist the mistakes of one over another and do not grudge dispensing appropriate rewards. See to it you do not show favours to one who has done nothing but merely counts on his family position: and do not withhold proper rewards from one who has done great deeds simply because he holds a low position in life.

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THE REAL GUIDANCE

Turn to God and to His Prophet for guidance whenever you feel uncertain as to what you have to do. There is the commandment of God delivered to those people whom He wishes to guide aright: "O people of the Faith! Obey God and obey His Prophet and those from among you who hold authority over you. And refer to God and His Prophet whenever there is a difference of opinion among you." To turn to God is in reality to consult the book of God; and to turn to the Prophet is to follow his universally accepted traditions.

CHIEF JUDGE

Select for your chief judge one who is by far the best among the people — one who is not obsessed with domestic worries, one who cannot be intimidated; one who does not err too often; one who does not turn back from the right path once he finds it; one who is not self-centred or avaricious; one who will not decide before knowing the full facts; one who will weigh with care every attendant doubt and pronounce a clear verdict after taking everything into full consideration; one who will not grow restive over the arguments of advocates and who will examine with patience every new disclosure of fact and who will be strictly impartial in his decision; one whom flattery cannot mislead or one who does not exult over his position. But it is not easy to find such men.

Once you have selected the right man for the office, pay him handsomely enough to let him live in comfort and in keeping with his position — enough to keep him above temptations. Give him a position in your court so high that none can even dream of coveting it and so high that neither backbiting nor intrigue can touch him.

SUBORDINATE JUDICIARY

Beware! The utmost carefullness is to be exercised in the selection of other officers of the judiciary: for it is this high office which adventurous self-seekers aspire to secure and exploit in their selfish interests. Confirm them in their appointments after approved apprenticeship and probation. Never select men for responsible posts either out of any regard for personal connections or under any influence, for that might lead to injustice and corruption.

Select for higher posts men of experience, firm in faith and belonging to good families. Such men will not fall an easy prey to temptations and will discharge their duties with an eye on the abiding good of others. Increase their salaries to give them a contented life. A contented living is a help to self-purification. They will not feel the urge to tax the earnings of their subordinates for their own upkeep. They will then have no excuse either to go against your instructions or misappropriate state funds. Have watch over them, without their knowledge, loyal and upright men. Perchance they may develop true honesty and true concern for the public welfare. But whenever any of them is accused of dishonesty, and the guilt is confirmed by the report of your Intelligence department then regard this as sufficient to convict him. Let the punishment be corporal and let that be dealt in the public at an appointed place of degradation.

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REVENUE ADMINISTRATION

Great care is to be exercised in revenue administration, to ensure the prosperity of those who pay the revenue to the state; for it is on their prosperity that the prosperity of others depends particularly the prosperity of the masses. Indeed, the state exists on its revenue. You should regard the proper upkeep of the land in cultivation as a greater importance than the collection of revenue, for revenue cannot be derived except by making the land productive. He who demands revenue without helping the cultivator to improve his land, inflicts unmerited hardship on the cultivator and ruins the State. The rule of such a person does not last long. If the cultivators ask for reduction of their land due for having suffered from epidemics or drought or excess of rains or the barrenness of the soil or floods damaging their crops, then, reduce the due accordingly, so that their condition might improve. Do not mind the loss of revenue on that account for that will return to you one day manifold in the hour of greater prosperity of the land and enable you to improve the condition of your towns and to raise the prestige of your State. You will be the object of universal praise. The people will believe in your sense of justice. The confidence which they will place in you in consequence will prove your strength, as they will be found ready to share your burdens.

You may settle down on the land any number of people, but discontent will overtake them if the land is not improved. The cause of the cultivator's ruin is the rulers who are bent feverishly on accumulating wealth at all costs, out of the fear that their rule might not last long. Such are the people who do not learn from examples or precedents.

CLERICAL ESTABLISHMENT

Keep an eye on your establishment and your scribes; and select the best among them for your confidential correspondence such among those as possess high character and deserve your full confidence, men who may not exploit their privileged position to go against you and who in the drafting of treaties may not succumb to external temptation and harm your interests, or fail to render you from trouble, and who in carrying out their duties can realise their serious responsibilities, for he who does not realise his own responsibilities can hardly appraise the responsibilities of others. Do not select men for such work merely on the strength of your first impressions of your affection or good faith; for as a matter of fact, the pretensions of a good many who are really devoid of honesty and good breeding may cheat even the intelligence of rulers. Selection should be made after due probation — probation which should be the test of righteousness. In making direct appointments from people, see to it that those selected possess influence with the people and enjoy the reputation of being honest; for such selection is agreeable both to God and the ruler. For every department of administration let there be a head, for whom no trying task might cause worry and no pressure of work annoy.

And remember that every weakness of any one among your establishment and scribes which you may overlook will be written down against you in your scroll of deeds.

TRADE AND INDUSTRY

Adopt useful schemes for those engaged in trade and industry and help them with wise counsels. Some of them live in towns, and some move from place to place with their wares and tools and earn their living by manual labour. Trade and industry are sources of profit to the state. While the general public is not inclined to bear the strain, those engaged in these professions take the trouble to collect commodities from far and near, from land and from across the sea, and from mountains and forests and naturally derive benefits.

It is this group of peace loving people from whom no disturbance need be feared. They love peace and order; indeed they are incapable of creating disorder. Visit every part of the country and establish personal contact with this class, and enquire into their conditions. But bear in mind that a good many of them are intensely greedy and are innured to bad dealings. They hoard grain and try to sell it at a high price; and this is most harmful to the public. It is a blot on the name of the ruler not to fight this evil. Prevent them from hoarding; for the Prophet of God — Peace be on Him — had prohibited it. And see to it that trade is carried on with the utmost ease, that the scales are evenly held and that prices are so fixed that neither the seller nor the buyer is put to a loss. And if in spite of your warning, should any one go against your commands and commit the crime of hoarding, then deal him appropriately with severe punishment.

THE POOR

Beware! Fear God when dealing with the problem of the poor who have none to patronise, who are forlorn, indigent and helpless and are greatly torn in mind—victims to the vicissitudes of events. Among them there are some who do not question their lot in life and who notwithstanding their misery, do not go about begging. For God's sake, safeguard their rights; for on you rest the responsibility of protection. Assign for their uplift a portion of the state exchequer (*Baitul-mal*), wherever they may be, whether close at hand or far away from you. The rights of the two should be equal in your eye. Do not let any preoccupations to allow them to slip from your mind; for no excuse whatsoever for the disregard of their rights will be acceptable to God. Do not treat their interests as of less importance than your own, and never keep them outside the purview of your important considerations, and mark the persons who look down upon them and keep you in ignorance of their condition.

Select from among your officers such men as are meek and God-fearing who can keep you properly informed of the condition of the poor. Make such provision for these poor people as shall not oblige you to offer an excuse before God on the Day of Judgement; for, it is this section of the people more than any other which deserves benevolent treatment. Seek your reward from God by giving to each of them what is due to him and enjoin on yourself as a sacred duty the task of meeting the needs of such aged among them as have no independent means of livelihood and are averse to seek alms. And it is the discharge of this duty that usually proves very trying to rulers, but is very welcome to societies which are gifted with foresight. It is only such societies or nations who truly carry out their covenant with God to discharge their duty to the poor.

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OPEN CONFERENCES

Meet the oppressed and the lowly periodically in an open conference and, conscious of the divine presence there, have a heart-to-heart talk with them, and let none from your guard or civil officers or members of the police or the Intelligence department be by your side, so that the representative of the poor might state their grievances fearlessly and without reserve. For I have heard the Prophet of God say that "no nation or society will occupy a high position in which the strong do not discharge their duty to the weak." Bear with composure any strong language which they may use, and do not get annoyed if they cannot state their cause lucidly, even so, God will open for you his door of blessings and rewards. Whatever you can give to them, give it ungrudgingly, and whatever you cannot afford to give, make that clear to them in utmost sincerity.

There are certain things which call for prompt action. Accept the recommendations made by your officers for the redress of the grievances of the clerical staff. See to it that petitions or applications submitted for your consideration are brought to your notice the very day they are submitted, however much your officers might try to intercede them. Dispose of the day's work that very day, for the coming day will bring with it its own tasks.

COMMUNION WITH GOD

Do not forget to set apart the best of your time for communion with God, although every moment of yours is for Him only, provided it is spent sincerely in the service of your people. The special time that you give to prayer in the strict religious sense is to be devoted to the performance of the prescribed daily prayers. Keep yourself engaged in these prayers both in the day and in the night, and to gain perfect communion, do not, as far as possible, so lengthen your prayers that they grow tiresome on you. And when you lead in congregational prayer, do not let your prayer be so lengthy as to cause discomfort to the congregation or raise in them the feeling of dislike for it or mitigate its effect: for in the congregation there may be invalids and also those who have to attend to pressing affairs of their own.

When I had asked of the Prophet of God, on receiving an order to proceed to Yaman, how I should lead the people over there in prayer, he said "perform your prayers even as the weakest among you would do; and set an example of acting considerately to the faithful."

ALOOFNESS NOT DESIRABLE

Alongside of the observance of all that I have said above bear one thing in mind. Never for any length of time keep yourself aloof from the people, for to do so is to keep oneself ignorant of their affairs. It develops a wrong perspective in the ruler and renders him unable to distinguish between what is important and what is not, between right and wrong, and between truth and falsehood. The ruler is after all human; and he cannot form a correct view of anything which is out of sight. There is no distinctive sign attached to truth which may enable one to distinguish between the different varieties of truth and falsehood. The fact is that you must be one of two things. Either you are just or unjust. If you are just,

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then you will not keep yourself away from the people, but will listen to them and meet their requirements. On the other hand, if you are unjust, the people themselves will keep away from you. What virtue is there in your keeping aloof? At all events aloofness is not desirable especially when it is your duty to attend to the needs of the people. Complaints of oppression by your officers or petitions for justice should not prove irksome to you.

Make this clear to yourself that those immediately about and around you will like to exploit their position to covet what belongs to others and commit acts of injustice. Suppress such a tendency in them. Make it a rule of your conduct never to give even a small piece of land to any of your relations. That will prevent them from causing harm to the interests of others and save you from courting the dis-approbation of both God and man.

Deal justice squarely regardless of the fact whether one is a relation or not. If any of your relations or companions violates the law, mete out the punishment prescribed by law however painful it might be to you personally: for it will be all to the good of the State. If at any time people suspect, that you have been unjust to them in any respect disclose your mind to them and remove their suspicions. In this way, in your mind you will get attuned to the sense of justice and people will begin to love you. It will fulfil your wish that you should enjoy their confidence.

PEACE AND TREATIES

Bear in mind that you do not throw away the offer of peace which your enemy may himself make. Accept it, for that will please God. Peace is a source of comfort to the army; it reduces your worries and promotes order in the State. But beware! Be on your guard when the peace is signed; for certain types of enemies propose terms of peace just to lull you into a sense of security only to attack you again when you are off your guard. So you should exercise the utmost vigilance on your part, and place no undue faith in their protestations. But, if under the peace treaty you have accepted any obligations, discharge those obligations scrupulously. It is a trust and must be faithfully upheld and whenever you have promised anything, keep it with all the strength that you command for whatever differences of opinion might exist on other matters, there is nothing so noble as the fulfilment of a promise. This is recognised even among the non-Muslims, for they know the dire consequences which follow from the breaking of covenants. So never make excuses in discharging your responsibilities and never break a promise; nor cheat your enemy. For breach of promise is an act against God, and none except the positively wicked acts against God.

Indeed divine promises are a blessing spread over all mankind. The promise of God is a refuge sought after even by the most powerful on earth; for there is no risk of being cheated. So, do not make any promise from which you may afterwards have to offer excuses in order to retract; nor go back upon what you have confirmed to abide by; nor break it, however galling it may at first prove to be. For it is far better to wait in patience for wholesome results to follow than to break it out of any apprehensions.

Beware! Abstain from shedding blood without a valid cause. There is nothing more harmful than this. It brings about one's ruin. The blood that is wilfully

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shed shortens the life of a state. On the Day of Judgement it is the crime for which one will have to answer first. So, beware! Do not wish to build the strength of your state on blood; for it is this blood which ultimately weakens the state and passes it in to other hands. Before me and my God no excuse for wilful killing can be entertained.

Murder is a crime which is punishable by death. If on any account the corporal punishment dealt by the state for any lesser crime results in the death of the guilty, let not the prestige of the state stand in any way of the deceased's relations claiming blood money.

LAST INSTRUCTIONS

Do not make haste to do a thing before its time, nor put it off when the right moment arrives. Do not insist on doing a wrong thing, nor show slackness in rectifying a wrong thing. Perform everything in its proper time, and let everything occupy its proper place. When the people as a whole agree upon a thing, do not impose your own view on them and do not neglect to discharge the responsibility that rests on you in consequence. For the eyes of the people will be on you and you are answerable for whatever you do to them. The slightest dereliction of duty will bring its own retribution. Keep your anger under control and keep your hands and tongue in check. Whatever befalls you try to restrain yourself or else you will simply increase your worries.

It is imperative on you to study carefully the principles which have inspired just and good rulers who have gone before you. Give close thought to the example of your Prophet — peace be on him — his traditions, and the commandments of the Book of God and whatever you might have assimilated from my own way of dealing with things. Endeavour to the best of your ability to carry out the instructions which I have given you here and which you have solemnly undertaken to follow. By means of this order, I enjoin on you not to succumb to the promptings of your own heart or turn away from the discharge of the duties entrusted to you.

I seek the refuge of the might of the Almighty and of His limitless sphere of blessings, and invite you to pray with me that He may give us together the grace willingly to surrender our will to His will, and to enable us to acquit ourselves before Him and His creation; so that mankind might cherish our memory and our work survive. I seek of God the culmination of His blessings and pray that He may grant you and me His grace and the honour of martyrdom in His cause. Verily, we have to return to Him. I invoke His blessing on the Prophet of God and his pure progeny.

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